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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/354,945	07/15/1999	AKIO KOSAKA	09952/029001	5787

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER

CRAVER, CHARLES R

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/354,945

Applicant(s)

KOSAKA, AKIO

Examiner

Charles R Craver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 1999 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1-18-05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya in view of Flynn, of record.

Nakaya discloses a radio communication terminal (100) having a battery (127) comprising

Voice communicating means and image communicating means for communicating a voice and image signal, respectively,

a power supply detecting means (131) for detecting remaining battery power (col 4 lines 50-57);

a controller (110) for controlling the two communicating means based on the detection, wherein

when the remaining battery power is above a threshold, both communicating means are available, and when the remaining power is below the threshold, only the voice communicating means is available (col 8 lines 30-66).

Nakaya fails to disclose that the detecting means also detects if power is supplied from an external source.

Flynn discloses the utility of providing battery charging means to a portable device with battery power-level based control (col 7 lines 16-22, col 8 lines 13-30, col 10 lines 8-42), comprising means to detect the presence of the charging means. Therefore, it would have been obvious to add such a feature to Nakaya, as at the time of the invention a very large majority of mobile phones used rechargeable batteries and thus necessitated the use of an external charger, and the charger feature would alleviate the need to constantly replace batteries, saving the user money, and was notoriously well known to anyone of ordinary skill in the art as an obvious improvement in portable battery-powered communication devices. In such a combined invention, in a case wherein the power remaining in the battery was just at the aforementioned threshold, the addition of the charger would cause the battery level to rise above the threshold thus allowing the use of both communicating means, whereas otherwise only the voice means would be allowed use, and would inherently be based at least in part on the detection.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya in view of Ohno and Flynn, of record.

Nakaya discloses a radio communication terminal (100) having a battery (127) comprising

Voice communicating means and image communicating means for communicating a voice and image signal, respectively,

a power supply detecting means (131) for detecting remaining battery power (col 4 lines 50-57),

a controller (110) for controlling the two communicating means based on the detection, wherein the controller may control communication speed based on the detection (col 5 line 28-col 6 line 29) and

when the remaining battery power is above a threshold, both communicating means are available and communication speed may occur at a first speed (col 3 lines 11-25, col 8 line 31-col 9 line 26, col 4 lines 57-61), and when the remaining power is below the threshold, only the voice communicating means is available and may be communicated at a second, slower speed (col 8 lines 30-66).

Nakaya fails to disclose that the transmission speed may be set or that the detecting means also detects if power is supplied from an external source.

Ohno discloses an analogous art, that is, means for changing coding speed settings in a portable phone based on battery conditions (col 3 lines 20-48), wherein speed settings may further include lowering the amount of data transmitted over a given period of time, i.e. rate or speed of data transmission (col 5 line 36-col 6 line 4).

Flynn discloses the utility of providing battery charging means to a portable device with battery power-level based control (col 7 lines 16-22, col 8 lines 13-30, col 10 lines 8-42), comprising means to detect the presence of the charging means. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add a charger of Flynn and the speed setting means of Ohno to Nakaya, as at the time of the invention a very large majority of mobile phones used rechargeable batteries

and thus necessitated the use of an external charger, and the charger feature would alleviate the need to constantly replace batteries, saving the user money, and was notoriously well known to anyone of ordinary skill in the art as an obvious improvement in portable battery-powered communication devices.

Further, Nakaya already discloses lowering the rate of data encoding, which would lower the overall amount of data sent in an amount of time (see for example encoding every-other-frame), and Ohno discloses that reducing data transmission speed can further save power. Adding the feature of Ohno would thus reduce battery usage even more and extend battery life.

In such a combined invention, in a case wherein the power remaining in the battery was just at the aforementioned threshold, the addition of the charger would cause the battery level to rise above the threshold thus allowing the use of both communicating means, whereas otherwise only the voice means would be allowed use, and would inherently be based at least in part on the detection.

Response to Arguments

Applicant's arguments filed 12-3-04 have been fully considered but they are not persuasive.

First, while Nakaya fails to disclose a charger, such is practically an inherent feature in a battery-powered portable phone, and as such the use of one in Nakaya would have been quite obvious to one of ordinary skill in the art, as shown by Flynn. Given the assumption that a charger is operable in the invention of Nakaya, the case

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laid out above, wherein a charger is attached when the battery level is just at the threshold at which the image communication means has been disabled, would render unpatentable the instant invention of claims 17 and 18, as the attachment would raise the battery power above the threshold and thus allow either communication, whereas if the charger is not attached, only the voice communication would be allowed. Such would thus inherently be associated with the determination that the charger is connected, as the detection of the power supply charger causes the battery to charge, that is, if, for example, the charger is attached and the detection means fails to detect it, the battery is not charged in Flynn. As such, the determination that the charger is attached is a key step in the method of charging the battery and would inherently lead to the charging of the battery above the given threshold and thus allow the two communication means to be used.

Conclusion

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(703) 872-9306 for both formal and informal/draft communications, labeled as such.

Hand delivered responses should be brought to Crystal Plaza II, 200

South 20th St, Arlington VA, first floor (receptionist).

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Any inquiry concerning this or earlier communications from the examiner should be directed to examiner Charles Craver at (703) 305-3965.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Vivian Chin, can be reached at (703) 308-6739.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 305-4700.

CC

C.Craver

March 4, 2005


CHARLES CRAVER
PRIMARY EXAMINER